IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.1360 of 2008
1. PRASHANT KUMAR BHARTI AND
2. DHARMENDRA MAHTO …. Petitioners
Versus
STATE OF BIHAR…. Opposite Parties.
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2. 26.11.2008. This revision has been preferred against the judgment dated 20th September,2008 passed by Fast Track Court No.1, Bettiah in Cr. Appeal No.105 of 2008 thereby the conviction and sentence passed by Shri Hasmuddin Ansari, Judicial Magistrate, Bettia in G.R. No.1757 of 2007, Tr. No.2008 of 2008 dated 30.7.2008 has been affirmed.

It appears that the learned Magistrate has convicted both the petitioners along with other under section 392 I.P.C. and sentenced them to undergo R.I. for three years with a fine of Rs.5,000/-. In default to further undergo imprisonment for three months.

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Heard the learned counsel for the parties.

Learned counsel for the petitioners presses this revision only on the point of sentence. It is submitted that the motorcycle in question was not recovered from possession of these petitioners. The same was recovered from co-convict Prasant Shahi. Apart from confessional statement that there was no other material before the lower court to convict the petitioners. It is further submitted that there is no criminal antecedent against these petitioners. They have already remained in jail custody for last 16 months, which is sufficient to meet the ends of justice keeping in view the nature of accusation and evidence against them.

Considered the submission of the learned counsel for the

petitioners. Perused the judgment of both the courts. It appears that the motorcycle in question had not been recovered from possession of these petitioners. These petitioners were not identified at the spot. They have been implicated on the basis of confessional statement.

In this view of the matter, I am also of the view that the period already undergone by these petitioners, is sufficient to meet the ends of justice.

Accordingly, while affirming the order of conviction, the sentence awarded to them is hereby modified to the extent of the period already undergone by these petitioners without fine, which is more than 16 months.

Accordingly, this revision application is dismissed with the above modification in the sentence. The petitioners are directed to be released at once if not wanted in any other case.

Let this order be communicated to the court below through fax on cost being deposited by the petitioners.

(Ghanshyam Prasad)

N.H./

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